IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1274 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MINOR ASHWINKUMAR PURSHOTTAMBHAI SENVA

Versus

STATE OF GUJARAT

Appearance:

MR HM PRACHCHHAK for Petitioner

MR AD OZA for Gujarat Secondary Education Board

MR KP Rawal for State

NOTICE SERVED for Respondent No. 5

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 21/03/2001

ORAL JUDGEMENT

1. Heard Learned counsel for the petitioner. Learned counsel Mr. A.D. Oza and Mr. K.P. Rawal,

leaned AGP, waives service of rule on behalf of Gujarat Secondary Education Board and the State respectively.

2. The present petition is filed by Minor Ashwinkumar Purshottambahi Senva under Article 226 of the Constitution for a direction to the respondents to accept the birth date of the petitioner as reflected in the Berth Certificate and also to correct petitioner's date of birth in the School Leaving Certificate issued by the Gujarat Secondary Education Board. According to the petitioner, he was born on 12-1-1984 and the birth certificate has been issued by the Public Health Department, which is at Annexure-A to the petition. Petitioner was initially admitted in Government Primary School at Katharjinamuvada on 27-6-1989. While he was studying in standard-III, petitioner intended to go to his maternal uncle's house, and therefore left the school for the purpose of getting admission in a school in his maternal uncle's place. The Government Primary School at Kantharjinamuvda issued School Leaving certificate to the petitioner which is at Annexure-B to the petition. The petitioner took admission in Shree Nava Visnagar Primary School at Visnagar, district Kheda, and at that time his birth date is correctly recorded as reflected in the School Leaving Certificate. After one year the petitioner once again returned to his native place and took transfer certificate from Shree Nava Visnagar Primary School. The respondent No.2 school issued School Leaving Certificate to the petitioner. Thereafter the petitioner continued his studies in his native place and passed SSC examination in March 2000 from Gujarat Secondary Education Board and took admission in Class-XI in Uttar Buniyadi School at Dakor. The petitioner appeared in Secondary Board examination (Standard-XII). At that time it is brought to the notice of the petitioner that his date of birth was wrongly mentioned in the certificate issued by Gujarat Secondary Education Board. Said certificate is at Annexure-C. On inquiry the petitioner has come to know that the mistake in the date of birth of the petitioner has been committed by Respondent No.2 school while issuing the School Leaving Certificate, and this mistake resulted into recording of wrong date of birth of the petitioner in the certificate issued by the Board. It is submitted by learned counsel for the petitioner that the petitioner's name was enrolled at Sr.No. 505 in the school Register of respondent No.2, while issuing the transfer certificate the school erroneously recorded date of birth of a student whose name appears at Sr.No. 506, and because of this error the date of birth of the petitioner has been recorded as 18-6-1978. The mistake was entirely

committed by respondent No.2 school. Thereafter the petitioner applied for correction of date of birth to respondent No.4, but the respondent No.4 expressed his inability to correct the date of birth. Petitioner thereafter approached District Education Officer (DEO) on 6-1-2001 for correction of date of birth and the said DEO, respondent No.5 also refused to correct the date of birth. Hence this petition for correction of date of birth of the petitioner.

3. I have heard learned counsel for the petitioner and Mr. A.D. Oza, learned counsel for the Gujarat Secondary Education Board and Mr. K.P. Rawal, learned AGP appearing for the State. It appears from Annexure-A, the birth certificate issued by the Public Health Department that the date of birth of the petitioner is 18-1-1984. It further appears from the School Leaving Certificate issued by Government Primary School at Kantharjinamuvada that the date of birth of the petitioner is 12-1-1984. But from the School Leaving Certificate issued by Shree Nava Visnagar Primary School at Visnagar, at page-15 it appears that the date of birth of the petitioner has been recorded as 18-6-1978. Therefore, it is evident that the respondent No.2 school has committed a genuine mistake while recording the date of birth of the petitioner. Copy of the certificate issued by Gujarat Secondary Education Board at Annexure-C also reflects erroneous date of birth of the petitioner as 18-6-1978. The counsel for the petitioner draws my attention to copy of the school register of respondent No.2 at page-18. In the said Register name of the petitioner has been recorded at Sr.No. 505 and the date of birth has been recorded as 12-1-1984, but the school has recorded the date of birth of a student whose name appears at Sr.No. 506. From here the mistake continued till the petitioner passed his SSC examination from Gujarat Secondary Education Board. Therefore it appears that a genuine mistake has been done by respondent No.2 school in recording date of birth in the School Leaving Certificate. Learned counsel for the respondent submitted that, if there is any genuine mistake the DEO may examine the same and recommend to the Principal / Head Master of the school from where the petitioner has passed his SSC examination. The school authority thereafter may forward the same to the Gujarat Second Education Board for correction of the date of birth of the petitioner in the certificate issued by them. Since a genuine mistake has been committed, I am of the view that the DEO, Kheda should examine the matter afresh. Accordingly the petitioner is directed to make a representation to the DEO at Kheda for correction of his

date of birth along with all relevant papers. The DEO, Kheda is directed to make an inquiry and if he is satisfied that there was genuine mistake, then he will recommend the correction of date of birth of the petitioner in the school register and send his recommendation to the school from where the petitioner has passed his SSC examination. The school authority thereafter make necessary correction in the school register, forward the same to the Gujarat Secondary Education Board for correction of date of birth of the petitioner in the certificate issued by the Board.

4. With the aforesaid directions, present petition is allowed. Rule made absolute to the aforesaid extent. However I make no order as to costs.

Dt: 21-3-2001 (P.K. Sarkar, J)

/vgn